

Atty. Dkt. No. ABI1460-3
(071243-001317)

The point of the discussion with respect to priority presented at page 2 of the Office Action is not understood. As discussed during the telephone interview, Applicants' oath and declaration includes reference to several prior applications from which priority is claimed. This is accurately reflected on the PTO-issued filing receipt for this application (copy attached for the examiner's convenience). It is not clear what, if anything more, is required of Applicants. Clarification is respectfully requested.

The rejection of claims 1 and 2 under 35 U.S.C. 112, second paragraph, is respectfully traversed. Applicant's respectfully disagree with the Examiner's assertion that "it is unclear what 'nanoparticle' refers to." (See the penultimate line at page 2 of the Office Action). As discussed during the telephone interview, it is respectfully submitted that those of skill in the art readily recognize what is embraced by this term. Moreover, one need only look to Parent Application Serial No. 09/446,783 (incorporated by reference in its entirety into the present application—see page 1, lines 4-8 of Applicants' specification) where specific values with respect to the size of particulates contemplated by such terminology is provided.

The rejection of claims 1-30 under 35 U.S.C. 103(a) as allegedly being unpatentable over Hunter, et al., U.S. Patent No. 6,333,347, is respectfully traversed. As discussed during the telephone interview, Hunter is respectfully submitted to be unavailable as prior art with respect to the present claims. The earliest possible date to which Hunter would be entitled is January 29, 1999. In contrast, Applicants are entitled to at least the June 26, 1998 priority date of the PCT Application from which the parent of this application derives priority. See, for example Example 48 (at pages 141-143) of the published PCT application, where the effect on artery restenosis of an exemplary formulation of paclitaxel according to the invention in test animals following intimal trauma of the artery is addressed in detail.

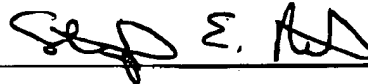
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In view of the above remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any issues remain to be resolved in view of this communication, the Examiner is invited to call the undersigned at the number given below so that a prompt disposition of this Application can be achieved.

Respectfully submitted,

Date: August 26, 2002

By



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Enclosure: copy of the Filing Receipt